

## The Louisiana Code of Governmental Ethics



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## THE BOARD OF ETHICS AND ITS FUNCTION

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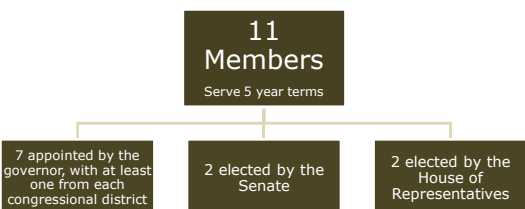
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## Louisiana Board of Ethics La. Const. Article 10, Section 21



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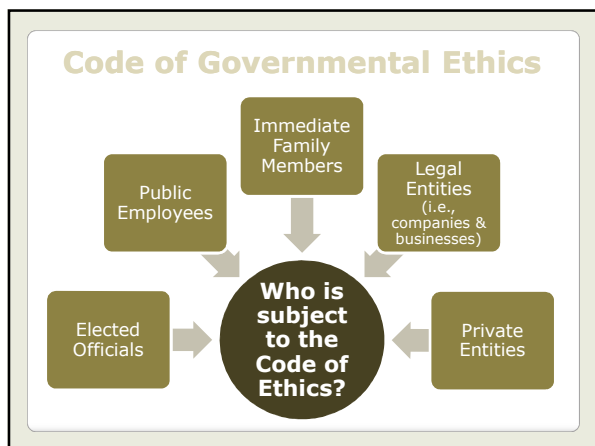
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### Code of Governmental Ethics

- Addresses conflicts of interest
- Policy Goals (Section 1101)
  - Elected officials and public employees be independent and impartial
  - Governmental decisions and policy be made in the proper channel
  - Public office and employment not be used for private gain
  - Public confidence in the integrity of Government

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### Advisory Opinions

- May be requested by any public servant, private entity or individual which has a direct interest in an issue arising under one of the laws under the Board's jurisdiction
- Request must be submitted in writing
- Request should be submitted prior to taking action
- Advisory opinions and requests for opinions are public record

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**Complaints**

May be filed by any individual 18 years of age or older who is qualified to vote

May be sworn or non-sworn

Must be written and signed

Issue must have occurred within the past 4 years

Agency heads are required to report any potential issues (Section 1161)

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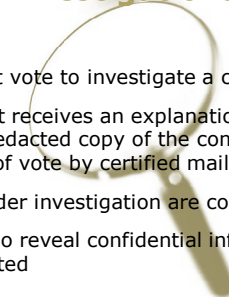
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### Investigations



- Board must vote to investigate a complaint
- Respondent receives an explanation of the matter, a redacted copy of the complaint, and a certificate of vote by certified mail
- Matters under investigation are confidential
- Persons who reveal confidential information may be prosecuted

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## Louisiana Board of Ethics

Board may vote to dismiss or to file charges

Charges are public information

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### Consent Opinions

- The Board may give the respondent an offer to enter into a consent opinion
- Consent opinions are public record
- Consent opinions may be accompanied by a fine or other penalty

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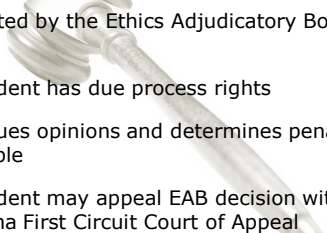
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### Public Hearings

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- Conducted by the Ethics Adjudicatory Board (EAB)
  - Respondent has due process rights
  - EAB issues opinions and determines penalties, if applicable
  - Respondent may appeal EAB decision with the Louisiana First Circuit Court of Appeal

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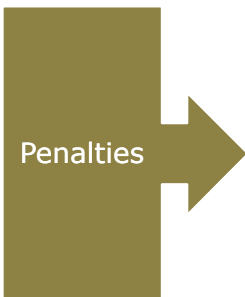
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### Louisiana Board of Ethics

#### Penalties

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- Censure
  - Fine of up to \$10,000, or amount of economic gain plus additional 50%
  - Forfeiture of gifts and payment
  - Remove, suspend, or order a reduction in pay, or demotion of the public employee

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**Conflicts of interest**

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**Definitions**

**Public Servant**

- A public employee or an elected official

**Agency (for an elected official)**

- The state or any political subdivision to which the elected official is elected

**Agency (for a public employee)**

- Department, office, division, agency, commission, board, committee, or other organizational unit of a governmental entity

**Person**

- An individual or a legal entity other than a governmental entity

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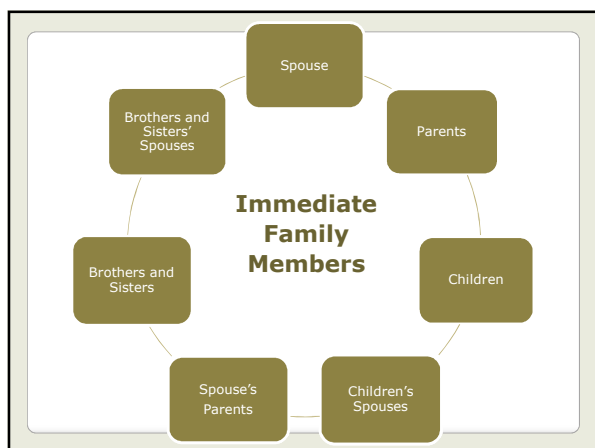
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### "Prohibited Source"

- A person who conducts activities which are regulated by the public employee's agency. [R.S. 42:1115B(1)]
- A person who has a substantial economic interest that can be affected by the performance or non-performance of the public employee's job duties. [R.S. 42:1115B(2)]

**For Public Employees:** (In addition to the prohibited sources listed below, the following two categories)

**For Elected Officials:**

- A person who has or is seeking a contractual, business, or financial arrangement with your agency. [R.S. 42:1115A(1)]
- Someone who, for compensation, attempts to influence any legislation or ordinance of the elected body.

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### LSA-R.S. 42:1115 – Gifts

A public servant may not solicit or accept, *directly or indirectly*, any thing of economic value as a gift or gratuity from any person or from any officer, director, agent, or employee of such person that is considered a "Prohibited Source":

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### Giver of Illegal Payments & Gifts

Section 1117

- No public servant or other person shall give, pay, loan, transfer, or deliver or offer to give, pay, loan, transfer, or deliver, directly or indirectly, to any public servant or other person any thing of economic value which such public servant or other person would be prohibited from receiving by any provision of the Code of Ethics

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## Thing of Economic Value

- Means money or any other thing having economic value
- Thing of economic value includes both **tangibles** and **intangibles**
- No minimum value
- Common examples
  - Tickets/complimentary admission
  - Gift cards
  - Discounts
  - Trips



\* There are exceptions and they must be followed closely to avoid a violation of the Code of Ethics

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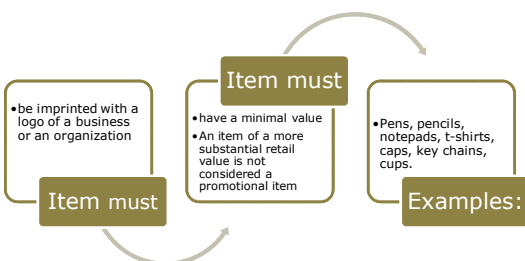
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## Promotional Items having no Substantial Resale Value




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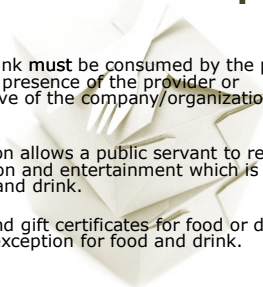
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## Food & Drink Exceptions

- Food and drink **must** be consumed by the personal guest in the presence of the provider or representative of the company/organization that is providing.
- The exception allows a public servant to receive transportation and entertainment which is incidental to the food and drink.
- Gift cards and gift certificates for food or drink are **not** part of the exception for food and drink.




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## Food & Drink Exceptions

- The limitation on the total dollar value of food and drink which a public servant may be given at a single event is **\$54** per public servant per event. (effective July 1, 2010)
  - An **"event"** is a single activity, occasion, reception, meal, or meeting at a given place and time
- The food and drink dollar limitation is calculated by dividing the total cost of the food and drink by the total number of persons invited to the event
- The dollar limitation **does not** include tax or gratuity

## Food & Drink Exceptions

Dollar limitation on food and drink does NOT apply at:

- A gathering held **in conjunction** with a meeting related to a national or regional organization or a meeting of a statewide organization of governmental officials or employees provided that **at least ten persons** associated with the organization are invited to the gathering.
  - **"In conjunction"** means an event held during the **same time period** and in the **same general locale** as a meeting of such an organization; or as part of the scheduled activities of the meeting and open to all persons attending the meeting

## Complimentary Admission

Admission to a **civic, non-profit, educational or political event**, if the public servant is a program honoree, giving a speech, or a panel member participating in a debate or discussion at the event

A public servant under the supervision of an elected official may receive complimentary admission to assist the elected official if such assistance is a part of the public servant's ordinary job duties

Does **NOT** include admission to any professional, semi-professional, or collegiate sporting event

Admission to a **fundraising event** for a candidate or a political party





### Educational and Professional Development Seminars and Conferences

A public servant may accept complimentary admission, reasonable lodging, and transportation to an **educational, professional development seminar or conference** which is held within the U.S. or Canada and which is related to the job duties of the public servant, provided that :

- The public servant must be invited to attend by the organization or entity;
- The sponsor is not a prohibited source seeking to influence legislation by public servant's agency;
- The agency head gives approval;
- An affidavit is filed with Board of Ethics within 60 days including the actual amount expended on the public servant's behalf;
- No affidavit is required if the public servant's agency or governmental entity pays for the public servant's expenses for attending the seminar

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### Prohibitions on Income

- Section 1111A(1)
  - A public servant may *not receive* any thing of economic value, other than compensation and benefits from the governmental entity to which he is duly entitled, for the performance of the duties and responsibilities of his office or position
  - Prohibition applies to receiving a thing of economic value from either member of the **public** or a **private source**

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### Prohibitions on Income – Section 1111C(2)(d)

- A public servant,
  - A public servant's spouse, or
  - A **legal entity** of which
    - the public servant or the spouse Exercises control, or
    - Owns an interest greater than 25%,
- MAY NOT**
- Receive any thing of economic value for or in consideration of services which are performed for or compensated by a person from whom the public servant is prohibited from receiving a gift by Section 1115A(1)
  - What is a "service"?
    - The performance of work, duties, or responsibilities, or the leasing, rental, or sale of movable or immovable property.
    - Includes employment, contractual work, selling property and goods

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**Prohibited Transactions –  
Section 1113A(1)(a)**

- A public servant
- A public servant's **immediate family member**, and
- A **legal entity** of which
  - the public servant and/or his immediate family members (collectively or separately) have an ownership interest exceeding 25%

MAY NOT

- **Bid on, or enter into, any contract, subcontract, or other transaction** under the supervision or jurisdiction of the public servant's **agency**

(This provision does not apply to legislators)

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**Prohibited Transactions –  
Section 1113A(1)(a)**

- There is **no** allowable minimum value for contracts, subcontracts and other transactions
- The prohibitions apply even if the contract or subcontract is awarded pursuant to public bid law, RFP, or other competitive selection process
- Donations of services and moveable property are allowed

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**Participation – Section 1112**

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### What does it mean to "Participate" in a transaction?

- Taking part in or sharing in the responsibility for an action of the governmental entity though
  - approval
  - disapproval
  - decision
  - recommendation
  - the rendering of advice
  - investigation
  - the failure to act or perform a duty.

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### Section 1112 What is a "substantial economic interest"?

- An economic interest which is of greater benefit to the public servant or other persons than to a general class or group of persons
- A substantial economic interest does **NOT** include:
  - A public servant's interest in his own position, office, rank, salary, per diem or other matter
  - An interest that a person has as a member of the general public

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### Avoiding Participation

- Public employees may disqualify themselves to avoid participation problems.
- Elected officials must recuse themselves from voting. They **may** participate in debate or discussion.
- Appointed members of boards or commissions must recuse themselves to avoid Section 1112 conflicts and **may not** participate in the debate or discussion.

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## §1116 Abuse of Office

A public servant may not:

- Use his office or position, directly or indirectly, to compel or coerce anyone to provide himself or another public servant any thing of economic value.

-OR-

- Use his office or position, directly or indirectly to compel or coerce anyone to participate in political activity.

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## Nepotism – Section 1119

No member of the immediate family of an **agency head** shall be employed in his agency.

- An "agency head" is the chief executive or administrative officer of an agency, or any member of a board or commission that exercises supervision or jurisdiction over an agency

Persons held liable for willful violation of nepotism provisions

- Agency head
- Member of the governing authority
- Person having authority to hire and fire
- Immediate supervisor

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## Nepotism – Section 1119

**The  
nepotism  
rules  
do not  
prohibit:**

- The continued employment and normal promotional advancement of a public employee where a member of the public employee's immediate family becomes the agency head, provided the public employee has been employed by the agency for at least **one year** prior to the public employee's immediate family member becoming the agency head

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### Nepotism – Section 1119

☐ There are specific exceptions concerning the immediate family members of

☐ School board members

☐ District Attorneys

☐ Members of a governing authority of a municipality with less than 2000 population and which owns an electrical or gas distribution system

☐ Legislators (as legislative assistants)

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### Post Employment Restrictions – Section 1121

No former public employee shall, for a period of **two years**

- Assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction, where he participated at any time during his employment and the agency he was employed by, or
- Render, any service he performed at the agency during the term of his public employment on a contractual basis, regardless of the parties to the contract, to, for, or on behalf of the agency with where he was employed.

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### Post Employment Restrictions – Section 1121

A former agency head or elected official shall not, for a period of **two years** following the termination of his public service:

- Assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction, involving that agency, or
- Render any service on a contractual basis to or for such agency




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# SCHEDULE E INCOME

## Personal Financial Disclosure – Section 1124

NOTE: If the income is derived from professional or consulting services and the disclosure of the name or address of the source of income is prohibited by law, the name and address may be disclosed on Schedule F.

DO NOT include income derived from any source (including a court order OR from disability payments from any source, INCOME NOT TO BE REPORTED ON E-1124)

**Section 1124**

- All elected officials who are subject to the Code of Ethics are required to file a personal financial disclosure statement with the Board of Ethics annually during each year of the term of office, as well as the year following the last year of the term of office.
- Each elected official should file only **one statement annually**, regardless of the number of positions which the elected official holds. The statement corresponding to the highest tier to which the elected official belongs should be filed.
  - Tier 1 – Statewide elected officials
  - Tier 2 – Elected officials who represent a voting district with a population of 5,000 or more, and all state legislators
  - Tier 2.1 – Members of certain boards and commissions
  - Tier 3 – Elected officials who represent a voting district with a population of less than 5,000

## Where to Get More Information



- **Ethics Website:**  
[www.ethics.state.la.us](http://www.ethics.state.la.us)
- **Informal Advice:**  
(225) 219-5600 or (800) 842-6630